

ADMINISTRATIVE PANEL DECISION

Nalli Chinnasami Chetty v. jacksoul leon

Case No. DCC2023-0004

1. The Parties

The Complainant is Nalli Chinnasami Chetty, India, represented by DePenning & DePenning, India.

The Respondent is Jacksoul Leon, China.

2. The Domain Name and Registrar

The disputed domain name <nalli.cc> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 10, 2023. On May 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (DOMAIN BY PROXY, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 17, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2023. The Respondent sent two emails on May 24, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on July 20, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant was established in 1928 and is an Indian partnership firm that manufactures and markets clothing and fashion accessories.

The Complainant has used the NALLI trademark on its goods since 1935 and is the owner of registered trademarks for NALLI in several countries, including United States of America trademark registration 2444608, registered on April 17, 2001, for goods in classes 24 and 25 and European Union trademark registration 005690839, registered on February 6, 2008, for goods in classes 14, 20 and 24. The Complainant's website is located at "www.nalli.com".

The disputed domain name was registered on April 11, 2023. When the Complaint was filed the disputed domain name resolved to an active website that purported to offer fine silks. The website at the disputed domain name currently resolves to a standard parking site of the concerned Registrar.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to the trademark in which the Complainant has rights.

The Complainant further submits that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not licensed or otherwise permitted the Respondent to use its trademark NALLI or to apply for any domain name incorporating said trademark. The Respondent's use of the word NALLI in the disputed domain name is bound to induce members of the public and trade to believe that either the disputed domain name is under the control of the Complainant or that the Respondent has a trade connection, association, relationship, or approval of the Complainant, when it is not so. The fact that the sole purpose of the Respondent's registration of the disputed domain name is to misappropriate the reputation of the Complainant's trademark NALLI and to divert traffic from the Complainant's website makes it apparent that the Respondent has no rights or legitimate interest in the disputed domain name.

The Complainant finally submits that the disputed domain name was registered and is being used in bad faith. The Complainant thus submits that it is implausible that the Respondent was unaware of the Complainant's mark when it registered the disputed domain name. In addition, the Respondent has used the disputed domain name for a website, which purports to offer goods that are identical to the Complainant's goods and that reproduces the Complainant's mark as well as the style of representation and the colour scheme that the Complainant uses.

B. Respondent

The Respondent did not reply to the Complainant's contentions but submitted two informal e-mails on May 24, 2023, stating that "I am happy to transfer the domain name to the complainant. All they have to do is contact me directly, and I will facilitate the transfer process".

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the trademark NALLI for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of paragraph 4(a) of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel considers that the record of this case reflects that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4. There is no evidence giving rise to rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the paragraph 4(a) of the Policy has also been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that the Respondent has used the disputed domain name in an attempt to attract, for commercial gain, Internet users to its web sites or other on-line location, by

creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The fact that use of the disputed domain name has changed to resolve to a website without any real content at the time of this Decision, does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

Noting that the disputed domain name incorporates the Complainant's trademark NALLI in its entirety, the disputed domain name is identical to the Complainant's domain name, that no substantive Response has been filed and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name, the Panel finds the third element of the paragraph 4(a) of the Policy has also been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <nalli.cc> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: August 4, 2023